IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 16458 of 2006

DATE OF DECISION: 17.10.2006

Subhash Chander ....Petitioner

Versus

State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr.Puneet Bali, Advocate
for the petitioner.

J.S. Khehar, J. (oral)

The petitioner was transferred from Urmar to Garhdiwala in his capacity as Kanungo by an order dated 13.5.2006 (Annexure P2). The aforesaid order has been reversed by an order dated 4.10.2006 (Annexure P1). It is the instant action at the hands of the respondents which has persuaded the petitioner to approach this Court.

Learned counsel for the petitioner states that the transfer of the petitioner within five months of his earlier posting itself smacks of extraneous considerations and mala fide. Learned counsel for the petitioner also vehemently contends that the impugned order dated 4.10.2006 (Annexure P1) has been passed only to accommodate respondent No. 3.

It is not possible for us to accept the instant challenge at the hands of the petitioner to the impugned order dated 4.10.2006 (Annexure P1) as it is not possible to record a finding from the pleadings in the instant case that the impugned order dated 4.10.2006 (Annexure P1) cancelling the

previous order of transfer dated 13.5.2006 (Annexure P2) is based on any extraneous consideration and/or mala fide intention of the authorities. In a situation like the one in hand, respondent No.3 may well have made a representation, showing reasons why he should not be dislocated from the place where he was posted prior to the issuance of the order dated 13.5.2006.

In addition to the aforesaid contention, the learned counsel for the petitioner desires to assail the impugned order of transfer on the basis of the policy instructions issued by the State Government. However, since the same are not readily available, the petitioner has not placed the policy instructions on the record of this case. Be that as it may, it is vehemently contended by the learned counsel for the petitioner that transfer is not ordinarily permissible within three years from the date of posting, and as such, it is contended that it was wholly unjustifiable for the respondents to have transferred the petitioner within a few months of the previous order of posting dated 13.5.2006. It is not possible for us to accept the instant contention of the learned counsel for the petitioner, since it is by now well settled that policy instructions/guidelines issued on matters of transfer are only directory in nature.

For the reasons recorded above, we find no merit in the instant writ petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

October 17, 2006.
vig